

#

1

2

3

4

5

6

7

8

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

9

RAQUEL MARTINEZ DIAZ and  
VIACHESLAV POLIAKOV,

NO.

10

Plaintiffs,

11

v.

12

UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT;  
RONALD D. VITIELLO, Deputy  
Director and Acting Director of U.S.  
Immigration and Customs  
Enforcement; UNITED STATES  
DEPARTMENT OF HOMELAND  
SECURITY; KIRSTJEN NIELSEN,  
Secretary of Homeland Security of the  
United States Department of  
Homeland Security; CYNTHIA  
MUNITA, Director of the Seattle Field  
Office of U.S. Immigration and  
Customs Enforcement; BRYAN S.  
WILCOX, Seattle Field Office Director  
of U.S. Immigration and Customs  
Enforcement; WILLIAM  
PENALOZA, Assistant Field Office  
Director, Seattle Field Office of U.S.  
Immigration and Customs Enforcement,  
and DOES 1 – 10.

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

13

14

15

16

17

18

19

20

21

22

23

Defendants.

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

Page 1

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

#

#

#

## **I – INTRODUCTION**

1. The Plaintiffs are being held at the Northwest Detention Center under the custody of Defendant Immigration Customs Enforcement (“ICE”).

2. Plaintiffs, who are without any economic or social power, sought to exercise their First Amendment rights of free speech, assembly and petitioning the government about U.S. immigration policies and the conditions of their forced detentions at the Northwest Detention Center.

3. ICE, and its parent agency, Defendant Department of Homeland Security (“DHS”) have retaliated against, and acted arbitrarily toward, people detained at the Northwest Detention Center for exercising their right of free speech, right to petition the government, and right to peaceably assemble.

4. ICE and DHS are threatening to retaliate against Plaintiffs for exercising their right of free speech, right to petition the government, and right to peaceably assemble.

## **II – JURISDICTION**

5. This Court has subject-matter jurisdiction over this matter under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. §§ 2201 and 2202 (declaratory relief).

## **III – VENUE**

6. Venue is proper in the Western District of Washington under 28 U.S.C. §§ 1391(b) and (e) because a substantial part of the events and omissions giving rise to Plaintiff’s claims occurred, and continue occur, in this District.

## **IV – PARTIES**

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 2

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

#

#

#

1 7. Plaintiff Raquel Martinez Diaz is being held in custody at the Northwest  
2 Detention Center in Tacoma, Washington, by ICE.

3 8. Plaintiff Viacheslav Poliakov is being held in custody at the Northwest  
4 Detention Center in Tacoma, Washington, by ICE.

5 9. Defendant ICE is a federal law enforcement agency within DHS. ICE is  
6 responsible for the criminal and civil enforcement of the immigration laws,  
7 including detention, incarceration, and removal of immigrants. ICE discharges its  
8 responsibility for incarceration of immigrants by (1) promulgating detention  
9 standards to be followed in the facilities in which immigrants are being held  
10 pending removal hearings, and (2) contracting with the government entities and  
11 private corporations that operate detention facilities, including the Northwest  
12 Detention Center. Enforcement and Removal Operations ("ERO"), a division of  
13 ICE, manages and oversees the immigration detention system. ICE contracts  
14 with the GEO Group, Inc., to handle the daily operations for the Northwest  
15 Detention Center.

16 10. Defendant Ronald D. Vitiello is Deputy Director and Acting Director of  
17 ICE. As Deputy Director and Acting Director, Defendant Vitiello is responsible for  
18 ICE's policies, practices, and procedures, including those relating to the detention  
19 of immigrants during their removal procedures.

20 11. Defendant ICE is the arm of the federal government responsible for  
21 the enforcement and administration of immigration laws.

22 12. Defendant Kirstjen Nielsen is the Secretary and highest ranking  
23 member of DHS. As Secretary of DHS, Defendant Nielsen is the Secretary and

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 3

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

#

#

#  
1 highest-ranking member of DHS. As Secretary of DHS, Defendant Nielsen is  
2 responsible for DHS's policies, practices, and procedures and exercises authority  
3 and oversight over ICE.

4 13. Defendant Cynthia Munita is Field Office Director for the Seattle Field  
5 Office of ICE. The Seattle Field Office is responsible for carrying out ICE's  
6 immigration detention and removal operations in Alaska, Oregon, and  
7 Washington State. As Director, Defendant Munita oversees the Seattle Field  
8 Office's functions and implementations of its detention standards.

9 14. Defendant Bryan Wilcox is the Deputy Field Office Director for the  
10 Seattle Field Office of ICE.

11 15. Defendant William Penaloza is the Assistant Field Office Director for  
12 Detention in the Seattle Field Office of ICE.

13 16. As Field Office Director, Deputy Field Office Director, and Assistant  
14 Field Office Director, Defendants Munita, Wilcox, and Penaloza oversee the  
15 Seattle Field Office's function and implementation of ICE detention standards at  
16 the Northwest Detention Center.

17 17. Defendants Vitiello, Nielson, Munita, Wilcox, and Penaloza are sued  
18 only in their official capacities.

19 18. In addition to the foregoing ICE agents and officials, unknown named  
20 ICE agents and officials are sued herein in their official capacities under fictitious  
21 names as Does 1 – 10 because their true names, titles, capacities, and/or degree  
22 of responsibility for the acts alleged herein are unknown to Plaintiffs at this time.  
23 When Plaintiffs ascertain this information they will amend this Complaint

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 4

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#  
1 accordingly. Does 1 – 10 include but are not limited to, ICE officials and  
2 supervisors, and immigration enforcement agents.

### 3 **V – FACTS**

4 19. On August 21, 2018, Plaintiff Viacheslav Poliakov went on hunger  
5 strike to express his beliefs, and raise awareness regarding inhuman conditions  
6 at the Northwest Detention Center (“NWDC”) to ask the government to make  
7 changes.

8 20. On August 30, 2018, Plaintiff Raquel Martinez Diaz began hunger  
9 striking.

10 21. By September 2, 2018, there were over 60 people on hunger strike  
11 inside the NWDC. Through hunger striking they sought to raise awareness about  
12 conditions in the NWDC, to petition the government to make changes, and to  
13 express their beliefs that this country’s immigration policies result in injustices  
14 upon immigrant families and communities.

15 22. Upon information and belief, the detainees voluntarily engaged in the  
16 hunger strikes and did not force others to join them.

17 23. The hunger strike was peaceful and did not disrupt the operation of  
18 the NWDC.

19 24. The NWDC guards responded by ordering the hunger strikers not to  
20 go on hunger strike and not to tell others to join in the hunger strike. The  
21 guards threatened solitary confinement (“the hole”), isolation, forced feeding,  
22 write ups, “freezing” the detainee’s court processes, and problems for their  
23

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 5

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#  
1 immigration cases. In the hole, people are locked up alone in a little cell, allowed  
2 only three showers a week, and denied access to phone calls, radio, etc.

3 25. Defendants have a history of retaliating, threatening, bullying,  
4 intimidating, and scaring people at NWDC who express their beliefs through  
5 hunger strikes, including putting people in isolation.

6 26. The guards' threats caused the hunger strikers to fear continuing the  
7 hunger strike. As a result of the threats, some hunger strikers ended their  
8 hunger strikes and started eating.

9 27. The guards placed some of those who continued the hunger strike  
10 almost immediately (and others shortly afterward) into isolation and solitary  
11 confinement for 30 days, sent others to different units where they could not see  
12 or communicate with each other about the hunger strike, and the guards  
13 threatened others on hunger strike (including Plaintiffs).

14 28. On September 7, 2018, several hunger strikers were sentenced to 30  
15 days in the hole. The written justification ("prohibited act") Defendants gave for  
16 the sentence (of at least one the hunger strikers on September 7) was  
17 "Engage/incite group demon."

18 29. The guards threatened Plaintiff Martinez Diaz with write ups  
19 (problems for her immigration case) and forced feeding.

20 30. The guards threatened Plaintiff Poliakov with force feeding. The  
21 guards have put Plaintiff Poliakov in solitary confinement, and are keeping him  
22 isolated, denying him access to the library, church, and (on at least one  
23 occasion) legal counsel.

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 6

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

1 31. The threats, retaliation, bullying, intimidation, putting people in  
2 isolation, and segregating people discourages them from continuing with the  
3 hunger strike and discourages and prevents other detainees from joining the  
4 hunger strike, and in fact has led to people ending their hunger strike.

5 32. ICE's policy on hunger strikes does not permit NWDC to place hunger  
6 striking detainees in solitary confinement for engaging in hunger strikes.

7 **VII – FIRST CAUSE OF ACTION: VIOLATION OF FREEDOM OF**  
8 **EXPRESSION**

9 33. Plaintiffs incorporate Paragraphs 1 – 32 (above) herein by reference.

10 34. The First Amendment guarantees Plaintiffs the right of freedom of  
11 speech and freedom of expression. Plaintiffs exercised their right to these  
12 protected freedoms by engaging in a hunger strike to express their views about  
13 national immigration policies and how detainees were being treated at the  
14 NWDC.

15 35. Defendants violated Plaintiffs' right of freedom of speech and  
16 freedom of expression by threatening force feeding, threatening solitary  
17 confinement, segregating hunger strikers, and threatening write ups, all in  
18 retaliation for their free speech activities.

19 36. Defendants violated Plaintiff Poliakov's right of freedom of speech by  
20 putting him into solitary confinement (and taking away "privileges") in retaliation  
21 for his free speech activities.

22 37. Force feeding Plaintiffs would violate Plaintiffs' right of freedom of  
23 speech and freedom of expression.

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 7

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

#

#

#

1 38. Defendants actions chilled Plaintiffs' right to freedom of speech and  
2 expression.

3 39. Defendants actions did not reasonably advance a legitimate  
4 institutional goal.

5 40. Plaintiffs have suffered, and continue to suffer, irreparable injuries as  
6 a result of Defendants' policies, practices, and omissions and are entitled to  
7 injunctive relief to avoid further injury.

8 **VIII – SECOND CAUSE OF ACTION: VIOLATION OF RIGHT TO PETITION**  
9 **THE GOVERNMENT FOR REDRESS OF GRIEVANCES**

10 41. Plaintiffs incorporate Paragraphs 1 – 40 (above) herein by reference.

11 42. The First Amendment guarantees Plaintiffs the right to petition the  
12 government for redress of grievances.

13 43. Defendants violated Plaintiffs' right to petition the government by  
14 threatening force feeding, threatening solitary confinement, segregating hunger  
15 strikers, and threatening write ups, all in retaliation for their attempts to bring  
16 their grievances to light.

17 44. Defendants threats and actions chilled Plaintiffs' right to freedom of  
18 speech and expression.

19 45. Defendants actions did not reasonably advance a legitimate  
20 institutional goal.

21 46. Plaintiffs have suffered and continue to suffer irreparable injuries as a  
22 result of Defendants' policies, practices, and omissions, and are entitled to  
23 injunctive relief to avoid further injury.

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 8

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

#

#



**#IV – THIRD CAUSE OF ACTION: VIOLATION OF RIGHT TO PEACEABLY ASSEMBLE**

47. Plaintiffs incorporate Paragraphs 1 – 46 (above) herein by reference.

42. The First Amendment guarantees Plaintiffs the right to peaceably assemble.

43. Defendants violated Plaintiffs' right to peaceably assemble by threatening force feeding, threatening solitary confinement, segregating hunger strikers, and threatening write ups, all in retaliation for their attempts to bring their grievances to light.

44. Defendants threats and actions chilled Plaintiffs' right to peaceably assemble.

45. Defendants actions did not reasonably advance a legitimate institutional goal.

46. Plaintiffs have suffered and continue to suffer irreparable injuries as a result of Defendants' policies, practices, and omissions and are entitled to injunctive relief to avoid further injury.

**PRAYER FOR RELIEF**

WHEREFORE Plaintiffs request that the Court:

1. Issue a temporary restraining order and preliminary relief enjoining defendants from force feeding Plaintiffs (as long as they have capacity to give or withhold consent);

2. Issue a temporary restraining order and preliminary relief enjoining the Defendants, their subordinates, agents, employees, and all other acting in concert with them from threatening adverse action (including segregation,

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 9

**Y. Junga Subedar**  
P.O. Box 2444, Bellingham, WA 98227  
Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**  
Law Office of Edward S. Alexander, P.S.  
114 W. Magnolia, Ste. 400, Bellingham, WA 98229  
Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

isolation, and separation) based upon Plaintiffs or other hunger strikers, or others similarly situated engaging in protected First Amendment activities including hunger striking;

3. Issue a temporary restraining order and preliminary relief enjoining the Defendants, their subordinates, agents, employees, and all others acting in concert with them from incarcerating the Plaintiffs, other hunger strikers and those similarly situated in administrative segregation, solitary confinement or isolation (and taking other adverse actions) based upon the Plaintiffs engaging in First Amendment Activities, and specifically including engaging in a hunger strike;

4. Issue a permanent injunction prohibiting Defendants, their subordinates, agents, employees, and all others acting in concert with them from taking adverse action actions (including forced feeding, segregation, separation, and isolation) against Plaintiffs, hunger strikers, and those similarly situated, based upon Plaintiffs engaging in First Amendment Activities, specifically including hunger striking;

5. Issue an order declaring the rights and obligations of the parties; and

6. Grant such further relief as the Court deems just and proper.

///

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 10

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

#

#

#

Dated this 13th day of September, 2018.

**Y. Junga Subedar**

Attorney for Plaintiff Viacheslav Poliakov

By: /s/ Y. Junga Subedar

Y. Junga Subedar, WSBA No. 35147

whatcomcivilrights@gmail.com

P.O. Box 2444

Bellingham, WA 98227

360-734-0217

AND

**Law Office of Edward S. Alexander, P.S.**

Attorney for Plaintiff Raquel Martinez Diaz

By: /s/ Edward S. Alexander

Edward S. Alexander, WSBA No. 33818

Edward@ESALawoffice.com

114 W. Magnolia Street, Suite 400

Bellingham, WA 98225

360-392-2872

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

Page 11

**Y. Junga Subedar**

P.O. Box 2444, Bellingham, WA 98227

Tel: 360-734-0217, Email: whatcomcivilrights@gmail.com

**Edward S. Alexander**

Law Office of Edward S. Alexander, P.S.

114 W. Magnolia, Ste. 400, Bellingham, WA 98229

Tel: 360-392-2872, Email: Edward@ESALawOffice.com

#

#

#